

akin to the efforts of America's charitable organizations that seek to meet the needs of Americans all across our lands. Today, as Americans across this country pay \$3.98 per gallon at the pump, these prices hit nearly every facet of life, including those charities providing care for many Americans in need.

One Tennessee paper reported today on the effects these prices are having on charities, and it says, "Nonprofit agencies and charities that rely on voluntary drivers to help carry out their work say soaring gas prices are forcing volunteers to scale back or even stop driving. This means there are fewer people to drive cancer patients to treatment and fewer people to deliver food to the needy."

Congress has a moral obligation to address rising fuel prices by immediately lifting the restrictions on America's energy-rich public lands to increase exploration for and production of American crude oil and natural gas and to do so in an environmentally friendly manner.

Ms. FOXX. Mr. Speaker, I urge all Members to support the passage of H.R. 5477, and I yield back the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I urge support for this resolution, and I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 5477.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SENIOR EXECUTIVE SERVICE DIVERSITY ASSURANCE ACT

Mr. DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3774) to provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Executive Service Diversity Assurance Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the Government Accountability Office—

(A) minorities made up 22.5 percent of the individuals serving at the GS-15 and GS-14 levels and 15.8 percent of the Senior Executive Service in 2007;

(B) women made up 34.3 percent of the individuals serving at the GS-15 and GS-14 levels and 29.1 percent of the Senior Executive Service in 2007; and

(C) although the number of career Senior Executive Service members increased from 6,110 in

2,000 to 6,555 in 2007, the representation of African-American men in the career Senior Executive Service declined during that same period from 5.5 percent to 5.0 percent; and

(2) according to the Office of Personnel Management—

(A) black employees represented 6.1 percent of employees at the Senior Pay levels and 17.8 percent of the permanent Federal workforce compared to 10.1 percent in the civilian labor force in 2007;

(B) Hispanic employees represented 4.0 percent of employees at the Senior Pay levels and 7.8 percent of the permanent Federal workforce compared to 13.3 percent of the civilian labor force in 2007; and

(C) women represented 28.2 percent of employees at the Senior Pay levels and 43.9 percent of the permanent Federal workforce compared to 45.7 percent of the civilian labor force in 2007.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Director" means the Director of the Office of Personnel Management;

(2) the term "Senior Executive Service" has the meaning given such term by section 2101a of title 5, United States Code;

(3) the terms "agency", "career appointee", and "career reserved position" have the meanings given them by section 3132 of title 5, United States Code; and

(4) the term "SES Resource Office" means the Senior Executive Service Resource Office, established under section 4.

SEC. 4. SENIOR EXECUTIVE SERVICE RESOURCE OFFICE.

(a) **ESTABLISHMENT.**—Not later than 180 days after the date of the enactment of this Act, the Director shall establish within the Office of Personnel Management an office to be known as the Senior Executive Service Resource Office. The mission of the SES Resource Office shall be—

(1) to improve the efficiency, effectiveness, and productivity of the Senior Executive Service through policy formulation and oversight;

(2) to advance the professionalism of the Senior Executive Service; and

(3) to ensure that, in seeking to achieve a Senior Executive Service reflective of the Nation's diversity, recruitment is from qualified individuals from appropriate sources.

(b) **FUNCTIONS.**—It shall be the function of the SES Resource Office to make recommendations to the Director with respect to regulations, and to provide guidance to agencies, concerning the structure, management, and diverse composition of the Senior Executive Service. In order to carry out the purposes of this section, the SES Resource Office shall—

(1) take such actions as the SES Resource Office considers necessary to manage and promote an efficient, elite, and diverse corps of senior executives by—

(A) creating policies for the management and improvement of the Senior Executive Service;

(B) providing oversight of the performance, structure, and composition of the Senior Executive Service; and

(C) providing guidance and oversight to agencies in the management of senior executives and candidates for the Senior Executive Service;

(2) be responsible for the policy development, management, and oversight of the Senior Executive Service pay system;

(3) develop standards for certification of each agency's Senior Executive Service performance management system and evaluate all agency applications for certification;

(4) be responsible for developing and monitoring programs for the advancement and training of senior executives, including the Senior Executive Service Federal Candidate Development Program;

(5) provide oversight of, and guidance to, agency executive resources boards;

(6) be responsible for the administration of the qualifications review board;

(7) establish and maintain annual statistics (in a form that renders them useful to appointing authorities and candidates) on—

(A) the total number of career reserved positions at each agency;

(B) the total number of vacant career reserved positions at each agency;

(C) of the positions under subparagraph (B), the number for which candidates are being sought;

(D) the number of individuals who have been certified in accordance with section 3393(c) of title 5, United States Code, and the composition of that group of individuals with regard to race, ethnicity, sex, age, and individuals with disabilities;

(E) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities;

(F) the composition of executive resources boards with regard to race, ethnicity, sex, and individuals with disabilities; and

(G) the composition of qualifications review boards with regard to race, ethnicity, sex, and individuals with disabilities;

(8) make available to the public through the official public internet site of the Office of Personnel Management, the data collected under paragraph (7);

(9) establish mentoring programs for potential candidates for the Senior Executive Service, including candidates who have been certified as having the executive qualifications necessary for initial appointment as a career appointee under a program established pursuant to section 3396(a) of title 5, United States Code;

(10) conduct a continuing program for the recruitment of women, members of racial and ethnic minority groups, and individuals with disabilities for Senior Executive Service positions, with special efforts directed at recruiting from educational institutions, professional associations, and other sources;

(11) advise agencies on the best practices for an agency in utilizing or consulting with an agency's equal employment or diversity office or official (if the agency has such an office or official) with regard to the agency's Senior Executive Service appointments process; and

(12) evaluate and implement strategies to ensure that agencies conduct appropriate outreach to other agencies to identify candidates for Senior Executive Service positions.

(c) **PROTECTION OF INDIVIDUALLY IDENTIFIABLE INFORMATION.**—For purposes of subsection (b)(8), the SES Resource Office may combine data for any agency that is not named in section 901(b) of chapter 31, United States Code, to protect individually identifiable information.

(d) **COOPERATION OF AGENCIES.**—The head of each agency shall provide the Office of Personnel Management with such information as the SES Resource Office may require in order to carry out subsection (b)(7).

SEC. 5. CAREER APPOINTMENTS.

(a) **PROMOTING DIVERSITY IN THE CAREER APPOINTMENTS PROCESS.**—Section 3393 of title 5, United States Code, is amended—

(1) in subsection (b), by inserting after the first sentence the following: "In establishing an executive resources board, the head of the agency shall, to the extent practicable, ensure diversity of the board and of any subgroup thereof or other evaluation panel related to the merit staffing process for career appointees, by including members of racial and ethnic minority groups, women, and individuals with disabilities."; and

(2) in subsection (c)(1), by adding after the last sentence the following: "Consideration should also be given to improving diversity by including members of racial and ethnic minority groups, women, and individuals with disabilities on qualifications review boards.".

(b) **REGULATIONS.**—Within 1 year after the date of the enactment of this Act, the Director shall promulgate regulations to implement subsection (a) and to improve diversity in executive

resources boards and qualifications review boards.

(c) **REPORT.**—Within 1 year after the date of the enactment of this Act, the Director shall submit to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report evaluating agency efforts to improve diversity in executive resources boards and of the members designated by agencies to serve on qualifications review boards, based on the information collected by the SES Resource Office under subparagraphs (F) and (G) of section 4(b)(7).

SEC. 6. ENCOURAGING A MORE DIVERSE SENIOR EXECUTIVE SERVICE.

(a) **SENIOR EXECUTIVE SERVICE DIVERSITY PLANS.**—Within 1 year after the date of the enactment of this Act, each agency, in consultation with the Office of Personnel Management, shall submit to the Office of Personnel Management a plan to enhance and maximize opportunities for the advancement and appointment of minorities, women, and individuals with disabilities in the agency to the Senior Executive Service. Agency plans shall address how the agency is identifying and eliminating barriers that impair the ability of minorities, women, and individuals with disabilities to obtain appointments to the Senior Executive Service and any actions the agency is taking to provide advancement opportunities, including—

(1) conducting outreach to minorities, women, and individuals within the agency and outside the agency;

(2) establishing and maintaining training and education programs to foster leadership development;

(3) identifying career enhancing opportunities for agency employees;

(4) assessing internal availability of candidates for Senior Executive Service positions; and

(5) conducting an inventory of employee skills and addressing current and potential gaps in skills and the distribution of skills.

Agency plans shall be updated at least every 2 years during the 10 years following enactment of this Act. An agency plan shall be reviewed by the Office of Personnel Management and, if determined to provide sufficient assurances, procedures, and commitments to provide adequate opportunities for the advancement and appointment of minorities, women, and individuals with disabilities to the Senior Executive Service, shall be approved by such Office. An agency may, in updating its plan, submit to the Office of Personnel Management an assessment of the impacts of the plan.

(b) **SUMMARY AND EVALUATION.**—Within 180 days after the deadline for the submission of any report or update under subsection (a), the Director shall transmit to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report summarizing and evaluating the agency plans or updates (as the case may be) so submitted.

(c) **COORDINATION.**—The Office of Personnel Management shall, in carrying out subsection (a), evaluate existing requirements under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) and section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and determine how agency reporting can be performed so as to be consistent with, but not duplicative of, such sections and any other similar requirements.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentlewoman from North Carolina (Ms. FOXX) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

I introduced H.R. 3774, the Senior Executive Diversity Assurance Act, on October 9, 2007. The bill was considered by the Federal Workforce Subcommittee on April 15, 2008, and by the full Committee on Oversight and Government Reform on May 1, 2008, when it was approved with amendment by voice vote.

Mr. Speaker, I wanted to thank Senator AKAKA for introducing a companion bill in the Senate, S. 2148, and for co-chairing an April 3, 2008, joint hearing where both the House and the Senate Federal Workforce Subcommittees examined the need for legislation to improve diversity at the highest levels of the Federal Government.

According to data from the Office of Personnel Management, the percentage of minorities and women at senior pay levels in the Federal Government, including the SES, is lower than in the civilian workforce and the Federal workforce as a whole. According to GAO, the number of African American men in the SES actually decreased between the years of 2000 and 2007. I believe that H.R. 3774 takes an important step towards improving the diversity of the Senior Executive Service.

This bill is a long time coming. Since 2003, I have requested Government Accountability Office reports and hearings on this issue. As chairman of the Subcommittee on the Federal Workforce Postal Service in the District of Columbia, I held a hearing in May 2007 on diversity in the SES. Following that hearing, my staff and I met with a number of Federal employee organizations, including the African American Federal Executives Association, the National Association of Hispanic Federal Executives, the Asian American Government Executives Network, Federally Employed Women, Blacks in Government, and the Senior Executives Association.

We learned that the lack of diversity in the SES is not skewed to a shortage of women and minorities at the GS-15 and GS-14 levels, which are the development pools for the SES. According to the Government Accountability Office, in 2007, minorities made up 22.5 percent of the employees in the SES development pool. At the same time, minorities made up only 15.8 percent of the SES. Rather, we heard that there are concerns with the selection process, and there is a lack of oversight and accountability in promoting and hiring minorities in the SES.

The Senior Executive Service Diversity Assurance Act aims to address

these concerns. H.R. 3774, as reported by the Committee on Oversight and Government Reform, reestablishes the Senior Executive Service Resource Office within the Office of Personnel Management and adds new requirements for the office such as requiring the collection of data on the mark-up of the selection panels that considered candidates for SES positions. OPM currently encourages agencies to make these panels diverse but collects no data on the panels.

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The bill requires agencies to ensure diversity by including, to the extent practicable, minorities, women, and individuals with disabilities on executive resources boards and any other panels or subgroups used to select SES appointees. This bill provides that OPM and agencies should also give consideration to improving diversity in qualifications review boards, which are the panels set up by OPM to certify the leadership qualifications of potential SES appointees. The bill requires OPM to issue regulations and report to Congress on agency efforts to improve the diversity of executive resources boards and qualifications review boards.

Finally, under this bill, agencies will be required to submit diversity plans, modeled on the current requirement that agencies submit plans for the hiring and advancement of individuals with disabilities. Each agency must submit a plan to OPM describing what efforts the agency is making to enhance and maximize opportunities for the advancement and appointment of minorities, women, and individuals with disabilities to the SES. These plans will have to be updated every 2 years for 10 years, and OPM will be required to submit a report to Congress summarizing and evaluating agency plans. I have also included a findings section that will help explain the purpose and intent of the legislation which is to address the concerns of the numbers of minorities in the SES.

Diversity will not be achieved in the SES on good intentions and failed policies. Now is the time to improve diversity in the SES, particularly since 90 percent of the current SES corps will retire over the next 10 years. Diversity of gender, ethnicity, age, and disabilities, as well as diversity of education, thinking, and experience are crucial if the Federal workforce is to mirror the communities we live in and serve. Paying close attention to diversity is the key to staying competitive in an increasingly global economy and recruiting the best and brightest workforce. It is my belief that all Americans want to work for organizations where they have the opportunity to use their skills, their knowledge to develop their careers. The Senior Executive Service Diversity Assurance Act will help provide that opportunity.

Therefore, Mr. Speaker, I urge passage of H.R. 3774.

I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to speak on H.R. 3774, the Senior Executive Service Diversity Assurance Act.

In April of this year, the Department of Justice wrote to the committee raising a number of constitutional concerns with the introduced version of this legislation. While a number of changes were made to address these concerns during committee consideration of the legislation, some remained concerned that the legislation could still be vulnerable to constitutional challenges. For example, making demographic information about these senior executive service candidates and incumbents available for hiring purposes could suggest that this information should be taken into account in the selection process.

But I stand before you today to raise a concern much bigger than the state of our Federal workforce. I stand before you today to bring your attention to the woeful lack of attention that has been given this Congress to the skyrocketing gas prices throughout this Nation.

Throughout the country, for the first time in our history, a gallon of gas at local gas stations averages more than \$4, and there appears to be no relief in sight for working class Americans.

House Republicans have introduced a comprehensive plan to lower gas prices and preserve energy independence. The Republican plan would increase the production of American-made energy in an environmentally safe way. It would promote new, clean, and reliable energy sources. It would cut red tape and increase the supply of American-made fuel and energy. And it would encourage greater efficiency by offering conservation tax incentives.

The Democrats, however, have no such plan to help American families and small businesses deal with their increasing pain at the pump.

At a time when our country is facing a serious crisis in energy prices, with all due respect to my colleague from Illinois, my assumption is that most Americans would prefer that we focus on solving America's energy woes, rather than spending valuable floor time debating the creation of various offices within the Office of Personnel Management.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I continue to reserve our time.

Ms. FOXX. Mr. Speaker, I have no further speakers and yield back the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, in closing, I want to thank and commend chairman of the Oversight Committee, Representative HENRY WAXMAN, and the ranking member, Representative TOM DAVIS, for their outstanding leadership and work on this legislation.

I also want to commend all of our staff persons on both sides of the com-

mittee, both the Democratic side and the Republican side. And especially do I want to commend my staff director for the Subcommittee on the Federal Workforce, District of Columbia and Postal Service, Ms. Tania Shand, for the tremendous work that she has done on this issue over the last 3 years in actuality.

And with that, Mr. Speaker, I urge passage of this bill.

I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 3774, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TELEWORK IMPROVEMENTS ACT OF 2008

Mr. DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4106) to improve teleworking in executive agencies by developing a telework program that allows employees to telework at least 20 percent of the hours worked in every 2 administrative workweeks, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telework Improvements Act of 2008".

SEC. 2. TELEWORK.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by inserting after chapter 63 the following:

"CHAPTER 65—TELEWORK

"Sec.

"6501. Definitions.

"6502. Governmentwide telework requirement.

"6503. Implementation.

"6504. Telework Managing Officer.

"6505. Evaluating telework in agencies.

"6506. Continuity of operations.

"§ 6501. Definitions

"For purposes of this chapter—

"(1) the term 'agency' means an Executive agency (as defined by section 105), except as provided in section 6506(c);

"(2) the term 'telework' or 'teleworking' refers to a work arrangement under which an employee regularly performs the duties and responsibilities of such employee's position, and other authorized activities, from home or another worksite removed from the employee's regular place of employment; and

"(3) the term 'continuity of operations' refers to an effort within individual executive departments and agencies to ensure that primary mission essential functions continue to be performed during a wide range of emergencies, including localized acts of nature, accidents, public health emergencies, and technological or attack-related emergencies.

"§ 6502. Governmentwide telework requirement

"(a) TELEWORK REQUIREMENT.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this chapter, the head of each agency shall establish a policy under which employees shall be authorized to telework, subject to paragraph (2) and subsection (b).

"(2) REGULATIONS.—The policy of each agency under this subsection—

"(A) shall be in conformance with regulations which the Administrator of General Services shall, within 120 days after the date of the enactment of this chapter and in coordination with the Office of Personnel Management, prescribe for purposes of this subsection; and

"(B) shall ensure that employees are authorized to telework—

"(i) to the maximum extent possible; and

"(ii) without diminishing employee performance or agency operations.

"(b) TREATMENT OF CERTAIN CIRCUMSTANCES.—Nothing in subsection (a) shall be considered—

"(1) to require the head of an agency to authorize teleworking in the case of an employee whose duties and responsibilities—

"(A) require daily access to classified information;

"(B) require daily face-to-face contact with members of the public or other persons, or the use of equipment, at the employee's regular place of employment; or

"(C) are such that their performance from a site removed from the employee's regular place of employment is not feasible; or

"(2) to prevent the temporary denial of permission for an employee to telework if, in the judgment of the agency head—

"(A) the employee is needed to respond to an emergency;

"(B) the employee requires additional training; or

"(C) the denial is necessary, for a specific or ascertainable period of time, to achieve goals and objectives of programs administered by the agency.

"(c) RULE OF CONSTRUCTION.—Nothing in this chapter shall—

"(1) be considered to require any employee to telework; or

"(2) prevent an agency from permitting an employee to telework as part of a continuity of operations plan.

"§ 6503. Implementation

"In order to carry out the purposes of this chapter—

"(1) the head of each agency shall ensure that—

"(A) appropriate training is provided to supervisors and managers and to all employees who are authorized to telework; and

"(B) no distinction is made between teleworkers and nonteleworkers for purposes of performance appraisals;

"(2) the General Services Administration, in coordination with the Office of Personnel Management, shall provide advice, assistance, and, to the extent necessary, training to agencies, including with respect to—

"(A) questions of eligibility to telework, including considerations relating to employee performance; and

"(B) making telework part of the agency's goals, including those of individual supervisors and managers;

"(3) the General Services Administration, in coordination with the Office of Management and Budget and the National Institute of Standards and Technology, shall prescribe regulations, within 120 days after the date of the enactment of this chapter, to ensure the adequacy of information and security protections for information and information systems used in, or otherwise affected by, teleworking; such regulations shall be consistent with information security policies and guidance issued by the Office of Management and